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**OF APRIL 14, 2009**

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**REGULAR MEETING OF THE BOARD OF COUNTY**  
**COMMISSIONERS**

The Board of County Commissioners of Indian River County, Florida, met in Regular Session at the County Commission Chambers, 1801 27<sup>th</sup> Street, Vero Beach, Florida, on Tuesday, April 14, 2009. Present were Chairman Wesley S. Davis, Vice Chairman Joseph E. Flescher, and Commissioners Peter D. O'Bryan, Bob Solari, and Gary C. Wheeler. Also present were County Administrator Joseph A. Baird, County Attorney William G. Collins II, and Deputy Clerk Leona Adair Allen.

**1. CALL TO ORDER**

Chairman Davis called the meeting to order at 9:00 a.m.

**2. INVOCATION**

Dr. Charles C. Lever, Pastor, First United Methodist Church, delivered the Invocation.

**3. PLEDGE OF ALLEGIANCE**

County Attorney William G. Collins II led the Pledge of Allegiance to the Flag.

**4. ADDITIONS/DELETIONS TO THE AGENDA/EMERGENCY ITEMS**

**Moved:** Item 13.B. was heard following Item 14.C.1.

ON MOTION by Commissioner O’Bryan, SECONDED by Commissioner Solari, the Board unanimously approved the above change to the Agenda.

## **5. PROCLAMATIONS AND PRESENTATIONS**

### **5.A. PRESENTATION OF CERTIFICATE OF APPRECIATION TO INDIAN RIVER COUNTY FIRE RESCUE**

Commissioner O’Bryan read and presented the Proclamation to Assistant Fire Chief Ed Prime, who accepted on behalf of the Indian River County Fire Rescue. Fire Rescue Lieutenant David Dangerfield thanked the Board for the recognition.

### **5.B. PRESENTATION BY THE FLORIDA GREEN BUILDING COALITION TO THE INDIAN RIVER COUNTY BOARD OF COUNTY COMMISSIONERS FOR THE FLORIDA GREEN COUNTY “GOLD” CERTIFICATION AWARD**

**Terry Janssen**, member of Florida Green Building Coalition Board of Directors and State co-chair of the Government Green Standards Committee, applauded County staff for adopting the Green Standards, and for all they had achieved with helping to make Indian River County a “Green County” at the “Gold” level. He reported that adopting the Standards would lower the budget, save tax dollars, and make the environment a better place to live. He presented the Board with an official Certification Award recognizing Indian River County as a “Green County” at the “Gold” level. The award was framed with recycled pine wood that had been at the bottom of a river for 200+ years. He said that he would be providing the County with a recycled flag that is made from recycled plastic materials.

Commissioner O'Bryan thanked Judy Orcutt (Indian River County Sustainability Committee), Amy Thoma (Florida Green Building Coalition), staff, and all the individuals responsible for bringing our County to the "Gold" level. He stressed how the certification makes our County a leader, how it will help economic development, bring in more businesses, and that it makes for a sustainable County. He acknowledged that Indian River County is only one of three counties in the state of Florida to have achieved the "Gold" certification.

**6. APPROVAL OF MINUTES - NONE**

**7. INFORMATIONAL ITEMS FROM STAFF OR COMMISSIONERS  
NOT REQUIRING BOARD ACTION**

**7.A. CITY OF SEBASTIAN, ORDINANCE No. O-08-01 – ANNEXING 17.14  
ACRES, LOCATED AT 13225 US 1, KNOWN AS SHADY REST MOBILE  
HOME PARK ON FILE IN THE OFFICE OF THE CLERK TO THE BOARD**

**7.B. RESIGNATION OF TAXPAYERS' ASSOCIATION APPOINTEE TO THE LAND  
ACQUISITION ADVISORY COMMITTEE**

Jim Granse, deceased April 1, 2009, left a vacancy on the Committee.

**7.C. RESIGNATION OF INTERESTED CITIZEN APPOINTEE TO THE MARINE  
ADVISORY NARROWS WATERSHED ACTION COMMITTEE**

Jim Granse, deceased April 1, 2009, left a vacancy on the Committee.



**7.D. 2009 ELECTION OF SCHOOL PLANNING CITIZENS OVERSIGHT  
COMMITTEE CHAIRMAN AND VICE CHAIRMAN**

On April 3, 2009, the School Planning Citizens Oversight Committee (COC) re-elected Charles Searcy as Chairman, and Mary Wolff as Vice Chairman for the year 2009.

**8. CONSENT AGENDA**

Commissioner O'Bryan requested to pull Items 8.D., 8.I., and 8.K. for discussion.  
Commissioner Solari requested to pull Item 8.F. for discussion.

ON MOTION by Commissioner O'Bryan, SECONDED by  
Commissioner Solari, the Board unanimously approved the  
Consent Agenda, as amended.

**8.A. APPROVAL OF WARRANTS AND WIRES – MARCH 27, 2009 THRU APRIL  
2, 2009**

ON MOTION by Commissioner O'Bryan, SECONDED by  
Commissioner Solari, the Board unanimously approved the  
list of Warrants and Wires as issued by the Clerk to the  
Board for the time period of March 27, 2009 to April 2,  
2009, as requested in the memorandum of April 2, 2009.

**8.B. DORI SLOSBERG DRIVER EDUCATION SAFETY ACT, INDIAN RIVER  
COUNTY TRAFFIC EDUCATION PROGRAM TRUST FUND**

ON MOTION by Commissioner O’Bryan, SECONDED by Commissioner Solari, the Board unanimously accepted the Report of Revenue, Expenditures, and Changes in Fund Balance Traffic Education Program, as recommended in the memorandum of April 6, 2009.

**8.C. OUT OF COUNTY TRAVEL TO ATTEND THE FLORIDA ASSOCIATION OF  
COUNTIES ANNUAL CONFERENCE IN MARCO ISLAND**

ON MOTION by Commissioner O’Bryan, SECONDED by Commissioner Solari, the Board unanimously approved Out of County Travel for Commissioners and Staff to attend the Florida Association of Counties Annual Conference in Marco Island from Tuesday, June 23, 2009 through Friday, June 26, 2009, as recommended in the memorandum of April 1, 2009.

**8.D. F.D.O.T. LOCAL AGENCY PROGRAM (LAP) AGREEMENT – FPN No.  
418136-1-58-01 AND RESOLUTION AUTHORIZING THE CHAIRMAN’S  
SIGNATURE, INDIAN RIVER BOULEVARD SIDEWALK IMPROVEMENT  
FROM 12<sup>TH</sup> STREET TO 17<sup>TH</sup> STREET, IRC PROJECT No. 0745**

Commissioner O'Bryan asked staff to consider using an aesthetic design when improving the pedestrian bridge over the canal, near Rockridge.

Public Works Director Jim Davis said he would do the best he could to make the bridge as aesthetically pleasing as possible, considering the limited budget.

ON MOTION by Vice Chairman O'Bryan, SECONDED by Vice Chairman Flescher, the Board unanimously approved: (1) the Local Agency Program Agreement; and (2) **Resolution 2009-040**, authorizing execution of a Local Agency Agreement for Indian River Boulevard sidewalk improvement from 12<sup>th</sup> Street to 17<sup>th</sup> Street, with the State of Florida, Department of Transportation, and providing for an effective date.

COPY OF AGREEMENT ON FILE IN THE OFFICE OF THE CLERK TO THE BOARD

**8.E. F.D.O.T. LOCAL AGENCY PROGRAM (LAP) AGREEMENT – FPN No. 418030-1-58-01 AND RESOLUTION AUTHORIZING THE CHAIRMAN'S SIGNATURE, 8<sup>TH</sup> STREET SIDEWALK FROM 18<sup>TH</sup> COURT AND OLD DIXIE HIGHWAY, IRC PROJECT No. 0455**

ON MOTION by Commissioner O'Bryan, SECONDED by Commissioner Solari, the Board unanimously approved: (1) the Local Agency Program Agreement; and (2) **Resolution 2009-041**, authorizing execution of a Local Agency Agreement for the 8<sup>th</sup> Street sidewalk from 18<sup>th</sup>

Court to Old Dixie Highway, with the State of Florida, Department of Transportation, and providing for an effective date.

COPY OF AGREEMENT ON FILE IN THE OFFICE OF THE CLERK TO THE BOARD

**8.F. PURCHASE AUTHORIZATION FOR ASPHALT MILLINGS**

Commissioner Solari supported a blanket approval to purchase asphalt millings as they become available; however, he warned that there could be multiple \$99,999 purchases that the Board would not know about. He proposed additional direction to staff: (1) requesting they inform the Board of milling purchases by placing the information on the Agenda, under Item 7, Informational Items, for the following Board meeting; and (2) that multiple purchases be annotated on an Excel spreadsheet noting the amount and date for each purchase.

Administrator Baird said his request could be accomplished.

ON MOTION by Commissioner Solari, SECONDED by Commissioner O'Bryan, the Board unanimously: (1) directed staff to inform the Board of milling purchases by placing the information on the Agenda under Informational Items, for the following Board meeting; (2) that multiple purchases be annotated on an Excel spreadsheet noting the amount and date for each purchase; (3) granted the County Administrator the authorization to issue Purchase Orders for asphalt millings without formal bidding subject to: (a) obtaining three (3) written quotes whenever possible for both the asphalt milling cost and the

transportation cost with a maximum lowest combined price not to exceed \$10.00 per ton; and (b) a maximum total purchase price not to exceed \$99,999.00 – quotes in excess of \$10.00 per ton delivered or total purchases in excess of \$99,999.00 must be approved by separate approval action by the Board of County Commissioners.

**8.G. APPROVAL OF RESOLUTION ADOPTING THE 2009 INDIAN RIVER COUNTY EMERGENCY PLAN FOR HAZARDOUS MATERIALS**

ON MOTION by Commissioner O’Bryan, SECONDED by Commissioner Solari, the Board unanimously approved **Resolution 2009-042**, approving the Indian River County Hazardous Materials Emergency Plan.

**8.H. THE ENCLAVE SUBDIVISION – PROJECT #0816 – GEOTECHNICAL SERVICES AMENDMENT NO. 1 TO WORK ORDER #6 DUNKELBERGER ENGINEERING & TESTING, INC.**

ON MOTION by Commissioner O’Bryan, SECONDED by Commissioner Solari, the Board unanimously approved Amendment No. 1 to Work Order No. 6 with Dunkelberger Engineering & Testing, Inc., and authorized the Chairman to execute same, as recommended in the memorandum of March 30, 2009.

AMENDMENT ON FILE IN THE OFFICE OF THE CLERK TO THE BOARD

**8.I. APPROVAL WORK ORDER NO. 3 (ENGINEERING) WITH A. M. ENGINEERING AND TESTING, INC. PROVIDING PROFESSIONAL GEOTECHNICAL SERVICES IN ACCORDANCE WITH THE ANNUAL GEOTECHNICAL SERVICES RFQ No. 2008071 FOR OLD DIXIE HIGHWAY FROM 12<sup>TH</sup> STREET TO SR 60, IRC PROJECT 0913 AND FOR 20<sup>TH</sup> AVENUE FROM OSLO ROAD TO SR 60, IRC PROJECT 0914, AMERICAN RECOVERY AND REINVESTMENT ACT (STIMULUS BILL)**

Commissioner O'Bryan updated the Board on the status of the stimulus money grants. He reporting that the County could get \$8 million of the stimulus for road projects -- \$2 million for transit operations, \$2.3 million for resurfacing 20<sup>th</sup> Avenue, \$2.5 million for Barber Street, and \$1 million for County Road 507 (from Fellsmere to the Brevard County line), and \$300,000 for beautification projects.

ON MOTION by Commissioner O'Bryan, SECONDED by Vice Chairman Flescher, the Board unanimously approved Work Order No. 3 (Engineering) for Geotechnical Services for projects outlined in Exhibit A, and authorized the Chairman to execute Work Order No. 3, not to exceed fee of \$13,980.00, as recommended in the Memorandum of April 6, 2009.

WORK ORDER ON FILE IN THE OFFICE OF THE CLERK TO THE BOARD

**8.J. CR 512 PHASE III, CR 510 – PROJECT #9611 & 0001, REQUEST FOR PAYMENT OF PRECISION CONTRACTING SERVICES, INC. INVOICE**

ON MOTION by Commissioner O’Bryan, SECONDED by Commissioner Solari, the Board unanimously approved payment of Precision Contracting, Inc., Invoice No. 08-8510-6009, dated December 11, 2008, in the amount of \$55,198.95, as recommended in the memorandum of March 31, 2009.

**8.K. ATTORNEY’S FEES FOR PROBATE WORK ON RIGHT-OF-WAY PARCEL**

Commissioner O’Bryan wanted to know why the County would be paying another Attorney’s office for Probate work and title.

Deputy County Attorney William DeBraal explained why Probate work was required, saying that the County wants to receive clear title to the property as it comes into possession. Following a brief discussion regarding possible title issues, he affirmed that the County would be paying full price for the lot.

Commissioner O’Bryan felt that in the future, staff should consider negotiating the price of the property, so that if we have to pay Attorney fees to get a clear title, the fee could be taken off the purchase price.

Attorney DeBraal did not agree, seeing that the County is purchasing the lot “as is.” He recommended the County receive clear title to the property and not take risks, especially since

this will most likely occur again, since the County will be purchasing future parcels with “clouds” on the titles.

County Attorney Will Collins clarified that the County is required to give the owners just compensation for the property, and if getting clear title to the property involves additional legal work, then the owners should not “suffer” when the County takes their property at the cost of making it clear title. He also noted that if the owner cannot provide a clear title, which is currently the case, the missing piece of property restricts the road project, and the County cannot move forward until it is acquired.

Commissioner O’Bryan did not consider this a take, but rather a negotiation purchase.

ON MOTION by Commissioner O’Bryan, SECONDED by Vice Chairman Flescher, the Board unanimously approved the Amendment to the Contract with David Godwin; and authorized the Chairman to execute same, as recommended in the memorandum of April 2, 2009.

AGREEMENT ON FILE IN THE OFFICE OF THE CLERK TO THE BOARD

**8.L. RELEASE OF PENDING DEMOLITION LIEN, THOMAS A. KALE, 2406  
50<sup>TH</sup> AVENUE**



ON MOTION by Commissioner O'Bryan, SECONDED by Commissioner Solari, the Board unanimously authorized the Chairman to execute the Release for recording in the Public Records of Indian River County, as recommended in the memorandum of April 6, 2009.

COPY OF RELEASE ON FILE IN THE OFFICE OF THE CLERK TO THE BOARD

## **9. CONSTITUTIONAL OFFICERS AND GOVERNMENTAL AGENCIES**

### **9.A. DERYL LOAR, INDIAN RIVER COUNTY SHERIFF, 2009 RECOVERY ACT: EDWARD BYRNE MEMORIAL JUSTICE ASSISTANCE GRANT (JAG) FORMULA PROGRAM: LOCAL SOLICITATION**

Sheriff Deryl Loar came before the Board to ask for approval to proceed with the grant application.

Chairman Davis asked if there was input from the public, there was none.

ON MOTION by Commissioner Wheeler, SECONDED by Vice Chairman Flescher, the Board unanimously approved that \$100,076.00 of the \$132,883.00 Grant funds to be used to purchase needed equipment for the Information Technology Unit, SWAT, the Multi Agency Criminal Enforcement Unit, and *the Substance Abuse Council*.

**9.B. DERYL LOAR, INDIAN RIVER COUNTY SHERIFF, BUDGET AMENDMENT**

Sheriff Loar requested the transfer of funds within his existing budget to help offset the capital expenses.

MOTION WAS MADE by Commissioner Solari, SECONDED by Vice Chairman Flescher, to amend the Sheriff's fiscal year 2008-2009 Operating Budget transferring funds between categories as needed to maximize use of the 2008 – 2009 budgeted funds.

Commissioner Wheeler requested Mr. Hall to provide the Board with an accounting to show what money came from the Salaries and Operating Funds, and what went to Capital Fund.

Comptroller Harry Hall clarified funding issues, and discussed the specifics of the budget and critical items relating to public safety.

Chairman Davis asked if there was input from the public, there was none.

THE Chairman CALLED THE QUESTION and the Motion carried. The Board unanimously approved to amend the Sheriff's fiscal year 2008-2009 Operating Budget, transferring funds between categories as needed to maximize use of the 2008 – 2009 budgeted funds; *and directed the Comptroller to provide an accounting that would show the money that is transferred from the Salaries and Operating Funds to the Capital Funds.*

**9.C. DERYL LOAR, INDIAN RIVER COUNTY SHERIFF, 2009 COPS HIRING RECOVERY PROGRAM (CHRP)**

Sheriff Loar pointed out that these five COPS Hiring Recovery Program (CHRP) positions are granted positions. He was hopeful that the positions would be funded for 36 months, and through attrition would be able to absorb the positions at zero cost to the taxpayers.

Chairman Davis asked if there was any input from the public, there was none.

ON MOTION by Commissioner Wheeler, SECONDED by Vice Chairman Flescher, the Board unanimously approved the request to submit the grant application for the 2009 COPS Hiring Recovery Program (CHRP), as requested in the letter dated April 6, 2009.

**10. PUBLIC ITEMS**

**10.A. PUBLIC HEARINGS**

**10.A.1. WINDSOR PROPERTIES, INC.'S REQUEST TO MODIFY THE WINDSOR CONCEPTUAL PD PLAN TO CHANGE THE PROJECT BOUNDARY FOR THE OCEAN BLUFF PHASE OF THE WINDSOR PROJECT (LEGISLATIVE)**

PROOF OF PUBLICATION OF ADVERTISEMENT FOR HEARING IS ON FILE IN THE  
OFFICE OF THE CLERK TO THE BOARD

Community Planning Director Stan Boling explained the proposal and analysis of the application to modify the Windsor Conceptual PD plan; how the modification would change the boundary of the Windsor project without increasing the maximum number of units within the project; and how the modification would revise the conceptual plan to reflect the results of a land swap. Using an aerial map presentation, he recapped his Memorandum of March 31, 2009, and recommended the Board approve the Windsor special exception request with the conditions listed in the Staff Report to include all dedications, tree protection, and final landscaping plans.

There was a brief discussion regarding the proposed lots having cross-overs to the beach (over the conservation area), and restrictions regarding “no construction” on the coastal construction line.

The Chairman opened the Public Hearing.

**Rene Renzi**, Waverly Place, questioned the location of this project in relation to the park where the contract had halted due to an endangered beach mice.

Director Boling affirmed that after a review and environmental survey, no beach mice were found in this area, nor in the Golden Sands Park area.

There were no additional speakers and the Chairman closed the Public Hearing.

ON MOTION by Commissioner Wheeler, SECONDED by Vice Chairman Flescher, the Board unanimously granted approval for the modification of the Windsor Conceptual PD Plan for the Ocean Bluff Phase of the Windsor Project with the following conditions: (1) Prior to issuance of an

LDP, the applicant shall obtain planning staff approval of a final buffer landscape plan and tree mitigation/relocation plan; (2) Prior to the issuance of a certificate of completion, the applicant shall complete the approved landscape buffers; and (3) Prior to or via the final plat, the applicant shall: (a) Dedicate without compensation 10' of additional right-of-way for SR A1A, and (b) establish a conservation easement for the 1.49 acre upland set aside area, as recommended in the memorandum of March 31, 2009.

**10.B. PUBLIC DISCUSSION ITEMS - NONE**

**10.C. PUBLIC NOTICE ITEMS - NONE**

**11. COUNTY ADMINISTRATOR'S MATTERS**

**11.A. AMERICAN RED CROSS REQUEST FOR DONATED USE OF COUNTY EQUIPMENT**

County Administrator Joseph Baird conveyed that the American Red Cross had requested to use the County's stage, and asked that the fee be waived.

Commissioner Wheeler felt non-profits should be charged rental fees when using County equipment but drew exception for the Red Cross, expressing his gratitude for their presence during hurricanes, natural disasters, fires, etc., and everything they do for the community.

ON MOTION by Commissioner Wheeler, SECONDED by Chairman Davis, the Board unanimously approved to waive the standard rental fees for the use of County equipment, as recommended in the memorandum of April 7, 2009.

## **12. DEPARTMENTAL MATTERS**

### **12.A. COMMUNITY DEVELOPMENT**

#### **12.A. 1. RECONSIDERATION OF THE 2006/2007 IMPACT FEE UPDATE**

##### **(DUNCAN) REPORT**

Community Development Director Robert Keating recalled how on March 3, 2009 the Board had approved an initiative to suspend five Impact Fees for a six-month period, and had also directed staff to bring back the last Impact Fee Update Report, which was performed by Duncan Associates. He announced that since that time, the impact fee suspension had been implemented.

Director Keating recapped his memorandum of March 26, 2009, providing a brief background and overview of the Report, traffic impact fees, the impact fee formula, credits given to the fee payer, the land use studies, drive-in banks and its components. He recommended the Board: (1) **not** adopt the Duncan Report because the data is “stale” (almost two years old) and does not comply with the new State law; (2) direct staff to review the new ITE trip generation rates; (3) update the traffic impact fee schedule; and (4) authorize staff to advertise for a public hearing to amend the Impact Fee Ordinance to reflect the new rates.

MOTION was made by Vice Chairman Flescher, SECONDED by Commissioner O'Bryan, under discussion, to accept staff's recommendation to **not** approve the Duncan Report, and authorize staff to retain a consultant to undertake a bank with drive-in land use analysis.

Under discussion, Commissioner Solari requested clarification to the old and new impact fee rates.

Commissioner O'Bryan voiced concern over the number and length of trips, and how they are applied and factored into this project. Even though the Duncan Report would not be adopted today, he suggested Vice Chairman Flescher consider modifying his motion to include the increase in credit, and the 23% reduction in the average trip length.

Chairman Davis questioned the savings on commercial facilities.

Director Keating further explained the details of the formula and its three independent variables (trip rate, trip length, and percent new trip).

There was a lengthy debate regarding accepting lower rates for the bank, new trips, impact fees, transportation fees, trips generated from businesses and customers, residential growth, and infrastructure.

Director Keating informed the Board that it was not necessary to spend \$27,000 for a land use analysis. He believed staff could go through the IT Manual to obtain new rates, apply the 23% reduction to the trip length, and apply the new credit.

**Rene Renzi**, Waverly Place, clarified that staff's recommendation was to "not" accept the Duncan Report. She recommended that in the future, the Board allow staff to do the work instead of hiring Consultants.

**Bob Johnson**, Coral Wind Subdivision, asked if there was another document in existence that could establish impact fees, and staff informed him that there was not. He wanted to clarify that the reason the Duncan Report was not recommended for approval by staff was because the information was stale, and Chairman Davis affirmed that to be correct.

There was a brief discussion as to whether the Duncan Report has a mechanism built into it for revision of the 2007 - 2010 data; and whether the 20/30 Long Range Transportation Plan has a provision that indicates that the County is going to impose an additional 6% local optional gas tax.

The Chairman CALLED THE QUESTION and the Motion carried. The Board unanimously denied the Duncan Report; and authorized staff to retain a Consultant to undertake a bank with drive-in land use analysis, as recommended in the memorandum of March 26, 2009.

*The Chairman called a break at 10:38 a.m. and reconvened the meeting at 10:47 a.m., with all members present.*

**12.B. EMERGENCY SERVICES - NONE**

**12.C. GENERAL SERVICES - NONE**



**12.D. HUMAN RESOURCES - NONE**

**12.E. HUMAN SERVICES - NONE**

**12.F. LEISURE SERVICES - NONE**

**12.G. OFFICE OF MANAGEMENT AND BUDGET - NONE**

**12.H. RECREATION - NONE**

**12.I. PUBLIC WORKS - NONE**

**12.J. UTILITIES SERVICES**

**12.J.1. BID AWARD RECOMMENDATION, CONSTRUCTION OF WATER, AND RECLAIMED WATER LINE REPLACEMENTS/EXTENSIONS AND MISCELLANEOUS, ANNUAL REQUIREMENTS LABOR CONTRACT, INDIAN RIVER COUNTY BID NO. 2009026, UTILITIES PROJECT NO. UCP #4006**

ON MOTION by Commissioner Wheeler, SECONDED by Commissioner O'Bryan, the Board unanimously:

- (1) Approved the award of Bid No. 2009026 to Sheltra & Sons Construction Co., Inc., of Okeechobee, FL (Contractor), the lowest responsive and responsible bidder. The term of this agreement will be two (2) years with a maximum of two (2) renewal terms of one (1) year each;

- (2) Approved the Sample Agreement; and
- (3) Authorized the Chairman to execute associated contracts with the Contractor when the required Certificate of Insurance has been received and approved by Risk Management and the County Attorney has approved the Contract as to form and legal sufficiency. Submittal of Performance and Payment Bonds will be required on an individual project basis and only for projects with a labor cost exceeding \$100,000.00, as recommended in the memorandum of March 26, 2009.

**12.J.2. REPLACEMENT OF A 10-INCH TRANSITE FORCE MAIN FROM VERO SHORES PUMP STATION EAST OF YOUNG'S MARKET ON U.S. 1 TO OLD DIXIE HIGHWAY, UCP No. 4004, WIP No. 471-23536-044699-09506**

ON MOTION by Commissioner Wheeler, SECONDED by Commissioner O'Bryan, the Board unanimously approved the Project with an estimated cost of \$175,00000; and approved publicly bidding the project through the County Purchasing Division, as recommended in the memorandum of April 1, 2009.

**12.J.3. NORTH COUNTY RO CONNECTION TO WELLS PROJECT – REJECTION OF BIDS, IRC BID No. 2009030**

ON MOTION by Commissioner Wheeler, SECONDED by Vice Chairman Flescher, the Board unanimously rejected all bids; and authorized staff to review the bid package to look for any potential cost saving alternatives, as recommended in the memorandum of April 3, 2009.

**12.J.4. EASEMENT ACQUISITION FOR THE INDIAN RIVER COUNTY UTILITIES DEPARTMENT LIFT STATION AND FORCE MAINS**

ON MOTION by Vice Chairman Flescher, SECONDED by Commissioner Wheeler, the Board unanimously approved the Young's Market Easement Acquisition, and payment of costs incurred by Mr. Kim for a total amount of \$19,512.50, as recommended in the memorandum of April 1, 2009.

**13. COUNTY ATTORNEY MATTERS**

**13.A. ACQUISITION OF RIGHT-OF-WAY ALONG CR 510, RICHARD AND MARY RENTSCHLER**

Attorney Collins recapped the Backup Memorandum of April 7, 2009, providing the details of the property and clarifying the purchase price of subject parcel.

Attorney DeBraal responded to Commissioner O'Bryan's questions regarding the removal of the driveway, what the \$20,300 included, and why the County would compensate the Rentschlers for their original fence, then install a new one.

A lengthy discussion ensued as the Commissioners sought clarification regarding the County bringing the property back to its previous state, moving the fence, purchasing the existing fence, and the labor cost involved with erecting the fence.

ON MOTION by Commissioner Solari, SECONDED by Chairman Davis, the Board, by a 4-1 vote (Commissioner O'Bryan opposed) approved the Agreement to Purchase and Sell Real Estate with Richard and Maryann Rentschler, as recommended in the memorandum of April 7, 2009.

AGREEMENT ON FILE IN THE OFFICE OF THE CLERK TO THE BOARD

**13.B. ACQUISITION OF RIGHT-OF-WAY ALONG 66<sup>TH</sup> AVE, BANACK FAMILY LIMITED PARTNERSHIP 66<sup>TH</sup> AVENUE AND 41<sup>ST</sup> STREET**

*(Clerk's Note: This Item was heard following Item 14.C.1., and is placed here for continuity.)*

Using an aerial map, Attorney DeBraal detailed the property and recapped his Memorandum of April 6, 2009. He stated that the property is currently planted in ornamental palm trees and that the take would not include any structures. He clarified the purchase price and pointed out that there would be a leaseback provision so the Banacks could continue to use the property as a nursery until the road construction would start, and at that time the County would notify the Banacks 90 days in advance, so they could prioritize the sale of the palms within the take. He also acknowledged that any palms remaining would be valued by an appraiser and that the County would purchase them (for their use).

Commissioner O'Bryan questioned why the County would be paying for 12 hours of engineering fees on raw land, and felt it would be best for the Banacks to start selling the palm trees now, not wait 90 days in advance of construction.

MOTION WAS MADE by Vice Chairman Flescher,  
SECONDED by Chairman Davis, under discussion, to  
approve the contract for the purchase of the Banack Ltd.  
Family Partnership parcel.

Under discussion, Attorney DeBaal recalled that there were no structures on the Cherry Lane Cattle purchase, and that it was an unimproved property, whereas this is improved; and that there were no severance damages involved.

The Chairman CALLED THE QUESTION, and by a vote  
of 2-3 (Commissioners O'Bryan, Solari, and Wheeler  
opposed), the MOTION FAILED.

Attorney DeBaal clarified the Board's direction, which was to re-examine the acreage price, the per tree price, to place a value on the leaseback, and bring it back to the Board.

**Charlie Wilson**, 1057 6<sup>th</sup> Avenue, voiced concern over impact fees, and believed that the County should re-evaluate the widening of 66<sup>th</sup> Avenue. He applauded the Board for not acquiring the Banack palm trees without further examination; and reiterated that the County should not purchase land unless it is needed.

## **14. COMMISSIONER ITEMS**

**14.A. COMMISSIONER WESLEY S. DAVIS, CHAIRMAN - NONE**

**14.B. COMMISSIONER JOSEPH E. FLESCHER, VICE CHAIRMAN - NONE**

**14.C. COMMISSIONER GARY C. WHEELER**

**14. C.1. DISCUSSION REGARDING INDIAN RIVER COUNTY ROAD  
IMPROVEMENTS PROJECTS (NO BACK-UP)**

*(Clerk's Note: This Item was heard prior to Item 13.B. and is placed here for continuity.)*

Commissioner Wheeler felt it necessary to re-evaluate the transportation goals and objectives due to the current economy. He felt that the monies being spent to 4-lane and eventually 6-lane 66<sup>th</sup> Avenue might better be spent to pave some of the east/west roads to 82<sup>nd</sup> Avenue. He also felt the right- of-way on 66<sup>th</sup> Avenue was a little ambitious to put a 6-lane highway when there is a 4-lane on US 1. Commissioner Wheeler wanted to re-evaluate 27<sup>th</sup>, 43<sup>rd</sup>, and the east/west roads for the current population, rather than reaching into the future and planning a 6-lane highway for something that may not be required for years.

Discussion ensued as to when and how Commissioner Wheeler wanted to go through the process.

MOTION WAS MADE by Commissioner Wheeler, SECONDED by Commissioner O'Bryan, under discussion, to re-evaluate the current transportation goals and objectives.

Under discussion, Commissioner Solari wanted assurance that this would not stop the projects that have already moved forward.

Commissioner Wheeler defined this to be a re-evaluation of the County's transportation needs, and not putting the brakes on any of the projects that have already started.

The Chairman CALLED THE QUESTION, and the Motion carried. The Board unanimously approved to re-evaluate the current transportation goals and objectives.

**14. C.2. DISCUSSION REGARDING ESTABLISHING A POLICY FOR REMOVAL OF PROPOSED ITEMS FROM THE BOARD OF COUNTY COMMISSION AGENDA (NO BACK-UP)**

*(Clerk's Note: This Item was heard following Item 13.B., and is placed here for continuity.)*

Commissioner Wheeler repeated the current policy, whereby items that are to be added to the Agenda after 12:00 noon on Wednesday, require a unanimous vote. He felt that if a Commissioner decides to pull/delete something from the Agenda that it should require a unanimous vote also, and he gave the Duncan Report as an example. He believed it would equalize the system for deleting or adding an item to the Agenda.

Discussion ensued as Administrator Baird provided details as to why the Duncan Report was pulled, and why the Wednesday noon deadline was so important.

Chairman Davis voiced his concern over who would be pulling the Items, and did not feel it was necessary for unanimous support, to be pulled by staff.

Commissioner Solari felt this would make a system that is already difficult to manage, that much more inflexible. He believed the reason for not allowing items on the Agenda without unanimous vote of the Board is to avoid surprises, and that the same reasoning would not apply for pulling an item.

MOTION WAS MADE by Commissioner Wheeler,  
SECONDED by Commissioner O'Bryan, that no  
Commissioner without consent of the Board, request  
anything be pulled from the Agenda unless it is an item  
he/she has placed under his/her matters.

Commissioner Solari said if it would be left up to the individual Commissioner, then he would agree to Commissioner Wheeler's Motion.

Administrator Baird said he would be a little more careful and communicate better in the future before pulling an item from the Agenda. He expressed the need for flexibility in pulling and postponing items in order to manage the organization, and get the best results for the community.



The Chairman CALLED THE QUESTION, and by a vote of 2-3 (Commissioners Davis, Flescher, and Solari opposed), the MOTION FAILED.

**14.D. COMMISSIONER PETER D. O'BRYAN**

**14.D.1. CONSIDERATION OF A CITIZEN'S BUDGET INPUT SURVEY**

Commissioner O'Bryan recalled that last week he had suggested that when moving forward with the budget process, the Board should seek more public input. He felt that his proposed survey would allow for public input and he provided the details of how the survey would be administered through a web based service. He believed this would be a tool that would help the Board make better informed decisions.

MOTION WAS MADE by Commissioner O'Bryan, SECONDED by Commissioner Wheeler, to approve moving forward with the Budget Survey.

Chairman Davis recommended this survey not be an open-ended item, but to try it for one year, then go through the results.

Commissioner Solari opposed the idea, he did not see good cause or reason for this. He felt the surveys would be self-selecting without substance. He reasoned that with a limited amount of resources, that when something is increased it would be decreasing something else, and in the end, it would not be meaningful.

Vice Chairman Flescher agreed with Commissioner Solari and voiced concern over electronic fraud, for a widespread imbalance of information.

Commissioner Wheeler felt this would be good for the County, it would make government more open to the public, and it would allow citizens an opportunity to see the depth of County Government. He recommended individuals enter their names, addresses, and phone numbers when submitting their surveys.

Discussion ensued regarding people providing their names, addresses, and phone numbers; and the cost and review of the survey.

Commissioner O'Bryan concluded by addressing the features that the service would provide.

The Chairman CALLED THE QUESTION, and by a vote of 2-3 (Commissioners Davis, Flescher, and Solari opposed), the MOTION FAILED.

**14.E. COMMISSIONER BOB SOLARI - NONE**

**15. SPECIAL DISTRICTS AND BOARDS**

**15.A. EMERGENCY SERVICES DISTRICT - NONE**

**15.B. SOLID WASTE DISPOSAL DISTRICT**

The Chairman announced that immediately upon adjournment of the Board of County Commissioners Meeting, the Board would reconvene as the Board of Commissioners of the Solid Waste Disposal District. Those Minutes are being prepared separately and appended to this document.

**15B.1. NOTICE OF PUBLIC MEETING TO APPROVE OR DISAPPROVE**  
**FRANCHISE APPLICATIONS: RFA No. 2009025 WASTE HAULING**  
**FRANCHISE – UNINCORPORATED ENTERPRISE ZONE**

**15B.2. SECOND AMENDMENT TO WASTE MANAGEMENT INC. OF FLORIDA**  
**FOR THE VERTICAL EXPANSION AND PARTIAL CLOSURE OF CLASS I**  
**LANDFILL AND BORROW POND CONSTRUCTION**

**15B.3. AMENDMENT No. 2 TO WORK ORDER No. 9 TO GEOSYNTEC**  
**CONSULTANTS, INC. FOR CONSUMPTIVE USE PERMIT MONITORING**  
**FOR BORROW POND DEVELOPMENT & CONSTRUCTION**

**15.C. ENVIRONMENTAL CONTROL BOARD - NONE**

ALL BACKUP DOCUMENTATION, RESOLUTIONS, AND ORDINANCES ARE ON FILE IN THE OFFICE OF  
THE CLERK TO THE BOARD AND ARE HEREBY MADE A PART OF THESE MINUTES

**16. ADJOURNMENT**

There being no further business, the Chairman declared the meeting adjourned at  
11:36 a.m.

ATTEST:

\_\_\_\_\_  
Jeffrey K. Barton, Clerk

\_\_\_\_\_  
Wesley S. Davis, Chairman

Minutes Approved: \_\_\_\_\_

BCC/LAA/2009Minutes